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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,564	01/08/2007	Thierry Cholley	Q93036	6629
23373 7590 12/08/2010 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
BOYER, RANDY				
ART UNIT		PAPER NUMBER		
1771				
NOTIFICATION DATE		DELIVERY MODE		
12/08/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com  
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**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/567,564

**Applicant(s)**

CHOLLEY ET AL.

**Examiner**

RANDY BOYER

**Art Unit**

1771

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 19 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: none.  
Claim(s) objected to: none.  
Claim(s) rejected: 1-5, 11-13 and 17-22.  
Claim(s) withdrawn from consideration: 23.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Glenn A Caldarola/  
Supervisory Patent Examiner, Art Unit 1771

/Randy Boyer/  
Examiner, Art Unit 1771

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's amendment and remarks filed 19 November 2010 are not sufficient or persuasive to patentably distinguish over the cited art of record. Consequently, the claims would be rejected as follows:

(a) Claims 1-5, 11-13, 17-20, and 22 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vangermain (US 3,526,645) as evidenced by Maskill (Howard Maskill, Mechanisms of Organic Reactions, New York, Oxford University Press Inc., 1996, p.62);  
(b) Claims 1, 5, 11-13, 17-19, 21, and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Bjornson (US 4,693,991) in view of Mansfield (US 5,648,305); and  
(c) Claims 2-4 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Bjornson (US 4,693,991) in view of Mansfield (US 5,648,305) and Maskill (Howard Maskill, Mechanisms of Organic Reactions, New York, Oxford University Press Inc., 1996, p.62).

1. Applicant argues that Vangermain does not disclose that nickel dimethylglyoxime can be mixed with another compound A and another compound B.

In response to Applicant's argument, Examiner notes wherein Vangermain discloses the use of molybdenyl acetylacetonate (compound A) (a group VI metal) with nickel dimethylglyoxime (compound B) (a group VIII metal) (see Vangermain, column 4, lines 25-30 and 43).

2. Applicant argues that Vangermain does not disclose the weight percentage of metals in the at least one refractory oxide.

In response to Applicant's argument, Examiner notes wherein Vangermain discloses "[t]he catalyst system can be used in amounts varying within very wide limits as long as a catalytic quantity is employed" (see Vangermain, column 5, lines 25-27) and "[i]kewise, the molar ratio of (A) the metallic compound of Subgroups IV to VI (to be considered the oxygen transmitter) and (B) the metallic compound of Subgroups VII to VIII, to be considered the redox catalyst, can be widely varied" (see Vangermain, column 5, lines 29-33).

3. Applicant argues that the working examples of Vangermain concern only homogeneous reactions in which the catalyst is not supported.

In response to Applicant's argument, Examiner notes wherein Vangermain discloses "[t]he catalyst can [ ] be present in solution, suspension, or on support materials, . . ." (see Vangermain, column 5, lines 2-3).

4. Applicant argues that: (a) Mansfield does not disclose a hydroconversion catalyst; and (b) Mansfield does not refer to the metals of the claimed catalyst.

In response to Applicant's argument, Examiner notes wherein Mansfield discloses that catalysts which may be improved by contact with oxime compounds include hydrotreating catalysts, hydrocracking catalysts, and hydrogenation catalysts (see Mansfield, column 2, lines 21-23). In this regard, Bjornson discloses hydrotreating catalysts comprising group VIII metals (nickel, cobalt) and group VI metals (molybdenum) (see Bjornson, Abstract).

5. Applicant argues that a person of ordinary skill in the art would not be motivated to combine the inventions of Bjornson and Mansfield because the inventions do not fall within the same technical area.

In response to Applicant's argument, Examiner notes that: (1) Bjornson is directed to hydrotreating catalysts (see Bjornson, Abstract); and (2) Mansfield discloses improving hydrotreating catalysts by contacting such catalysts with an oxime compound (see Mansfield, Abstract; and column 2, lines 21-22).

6. Applicant argues that Mansfield does not teach or suggest the use of an organic compound comprising two oxime groups.

In response to Applicant's argument, Examiner notes wherein Mansfield discloses the use of oximes having the same chemical formula as found in Applicant's claim 1 (see Mansfield, column 4, lines 36-47).

/Randy Boyer/  
Examiner, Art Unit 1771

/Glenn A Caldarella/  
Supervisory Patent Examiner, Art Unit 1771